

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

<p>FERRIS JOSEPH,</p> <p>Plaintiff,</p> <p>vs.</p> <p>CORPORATION OF THE PRESIDENT OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole, and CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF LATTER-DAY SAINTS, a Utah corporation sole,</p> <p>Defendants.</p>	<p>CIV. No.06-4143</p> <p>ANSWER OF DEFENDANTS CORPORATION OF THE PRESIDENT OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, A UTAH CORPORATION SOLE, AND CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF LATTER-DAY SAINTS, A UTAH CORPORATION SOLE</p>
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COME NOW Defendants, Corporation of the President of The Church of Jesus Christ of Latter-Day Saints, a Utah corporation sole, and Corporation of the Presiding Bishop of The Church of Latter-Day Saints, a Utah corporation sole, (collectively "Defendants" or "The CHURCH") by and through their attorney of record, and for their Answer to the Complaint of Plaintiff Ferris Joseph state and allege as follows:

1. The Defendants deny each and every matter, thing, and allegation in Plaintiff's Complaint except those which are hereinafter specifically admitted and remit Plaintiff to the strict proof thereon.
2. Plaintiff's Complaint fails to state a claim upon which relief may be granted.
3. Answering paragraph 1 of the Complaint, Defendants are without sufficient information to admit or deny the allegations of this paragraph.
4. Answering paragraph 2 of the Complaint, Defendants admit the allegations of this paragraph.

5. Answering paragraph 3 of the Complaint, Defendants admit that Plaintiff alleges the amount in controversy exceeds \$75,000 and admit that the action is between citizens of different states.

6. Answering paragraph 4 of the Complaint, Defendants admit that based upon the allegations in the Complaint, venue appears to be proper in this court.

7. Answering paragraph 5 of the Complaint, Defendants admit that Plaintiff is a Native American born in July 1955. Defendants are without sufficient information to admit or deny the remaining allegations contained in this paragraph.

8. Answering paragraph 6 of the Complaint, Defendants admit that some members of Plaintiff's family were members of The CHURCH and Plaintiff was baptized in The CHURCH when he was approximately nine years old. Defendants are without sufficient information at this time to admit or deny the remaining allegations of the paragraph.

9. Answering paragraph 7 of the Complaint, Defendants are without sufficient information at this time to admit or deny these allegations contained in this paragraph.

10. Answering paragraph 8 of the Complaint, Defendants admit that missionaries of The CHURCH are volunteers who are assigned to missions located across the country and the world. Defendants further admit that the missionaries preach the gospel of The CHURCH, typically in pairs and commonly walk door to door in residential neighborhoods. Defendants further admit that the missionaries are trained by The CHURCH. Defendants deny the remaining allegations contained in the paragraph.

11. Answering paragraph 9 of the Complaint, Defendants deny these allegations.

12. Answering paragraph 10 of the Complaint, Defendants deny these allegations.

13. Answering paragraph 11 of the Complaint, Defendants deny these allegations.

14. Answering paragraph 12 of the Complaint, Defendants deny these allegations.

15. Answering paragraph 13 of the Complaint, Defendants deny these allegations.

16. Answering paragraph 14 of the Complaint, Defendants deny these allegations.

17. Answering paragraph 15 of the Complaint, Defendants are without sufficient information at this time to admit or deny these allegations.

18. Answering paragraph 16 of the Complaint, Defendants deny these allegations.

19. Answering paragraph 17 of the Complaint, Defendants deny these allegations.

20. Answering paragraph 18 of the Complaint, Defendants are without sufficient information to admit or deny the allegations contained in this paragraph concerning the Plaintiff's state of mind and therefore deny the same. Defendants deny the remaining allegations of the paragraph.

21. Answering paragraph 19 of the Complaint, Defendants deny these allegations.

22. Answering paragraph 20 of the Complaint, Defendants deny these allegations.

23. Answering paragraph 21 of the Complaint, Defendants incorporate the answers it made to paragraphs 1 through 20 of the Complaint.

24. Answering paragraph 22 through 28, Defendants deny these allegations.

FIRST AFFIRMATIVE DEFENSE

25. Plaintiff's Complaint is barred in whole or in part by the applicable statute of limitations or the equitable doctrines of waiver, estoppel, and laches.

SECOND AFFIRMATIVE DEFENSE

26. Defendant Corporation of the Presiding Bishop of The Church of Jesus Christ of Latter-day Saints, a Utah corporation sole, is not a proper party defendant in this matter.

THIRD AFFIRMATIVE DEFENSE

27. The injury and damages, if any, sustained by Plaintiff were caused solely by the negligence or culpable conduct of an entity or individual other than Defendants.

FOURTH AFFIRMATIVE DEFENSE

28. Defendants owed no fiduciary duty to Plaintiff.

FIFTH AFFIRMATIVE DEFENSE

29. Plaintiff has failed to mitigate or minimize his damages, if any.

SIXTH AFFIRMATIVE DEFENSE

30. No vicarious liability can be imposed upon these Defendants for any acts or admissions of any other person in connection with this matter.

SEVENTH AFFIRMATIVE DEFENSE

31. This Court lacks subject matter jurisdiction over the Defendants and this lawsuit violates their rights under Amendments I, V and XIV of the United States Constitution, Article VI, Section 3, of the South Dakota Constitution, and federal and state law.

EIGHTH AFFIRMATIVE DEFENSE

32. The Complaint fails to join persons needed for a just adjudication of the claims set forth in the Complaint as required by Rule 19 of the Federal Rules of Civil Procedure.

NINTH AFFIRMATIVE DEFENSE

33. No vicarious liability of any kind can be imposed upon the Defendants for any acts or omissions of any other persons or persons.

TENTH AFFIRMATIVE DEFENSE

34. To the extent that Plaintiff may be entitled to recover any damages against the Defendants, which Defendants expressly deny, Defendants are entitled to an offset for an amount they have previously paid for treatment of injuries alleged in the Complaint.

WHEREFORE these Defendants pray that Plaintiff's Complaint be dismissed, that Plaintiff takes nothing by reason of this Complaint, that these Defendants be awarded their fees, costs, and disbursements, and such other and further relief as the Court may deem just and equitable.

Dated this 6th day of October, 2006.

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JURY DEMAND

DEMAND IS HEREBY MADE FOR A TRIAL BY JURY.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 6th day of October, 2006, a true and correct copy of the foregoing *Answer of Defendants Corporation of the President of The Church of Jesus Christ of Latter-Day Saints, a Utah corporation sole, and Corporation of the Presiding Bishop of The Church of Latter-Day Saints, a Utah corporation sole*, the above-entitled matter was served by first class mail, postage prepaid and electronically filed to:

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/s/ James E. McMahon
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